

**Union Calendar No. 221**

104TH CONGRESS  
2D Session

**H. R. 2036**

**[Report No. 104-454]**

**A BILL**

To amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes.

JANUARY 30, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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### IN THE HOUSE OF REPRESENTATIVES

JULY 13, 1995

Mr. OXLEY introduced the following bill; which was referred to the Committee on Commerce

JANUARY 30, 1996

Additional sponsors: Mr. PETE GEREN of Texas, Mr. BILBRAY, Mr. STUPAK, Mr. COMBEST, and Mrs. LINCOLN

JANUARY 30, 1996

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[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on July 13, 1995]

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## A BILL

To amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “Land Disposal Program*  
3 *Flexibility Act of 1995”.*

4 **SEC. 2. LAND DISPOSAL BAN.**

5       *Section 3004(g) of the Solid Waste Disposal Act (42*  
6 *U.S.C. 6924(g)) is amended by adding the following after*  
7 *paragraph (6):*

8       *“(7) Solid waste identified as hazardous based on one*  
9 *or more characteristics alone shall not be subject to this sub-*  
10 *section, any prohibitions under subsection (d), (e), or (f),*  
11 *or any requirement (other than any applicable specific*  
12 *method of treatment) promulgated under subsection (m) if*  
13 *such waste—*

14           *“(A)(i) is managed in a treatment system which*  
15 *subsequently discharges to waters of the United States*  
16 *pursuant to a permit issued under section 402 of the*  
17 *Clean Water Act (33 U.S.C. 1342); (ii) treated for the*  
18 *purposes of the pretreatment requirements of section*  
19 *307 of the Clean Water Act (33 U.S.C. 1317); (iii) or*  
20 *managed in a zero discharge system that, prior to*  
21 *any permanent land disposal, engages in Clean Water*  
22 *Act-equivalent treatment as determined by the Ad-*  
23 *ministrator;*

24           *“(B) no longer exhibits a hazardous characteris-*  
25 *tic prior to management in any land-based solid*  
26 *waste management unit;*

1           “(C) has met any applicable specific method of  
2           treatment promulgated by the Administrator under  
3           section 3004(m) (42 U.S.C. 6924(m)); and

4           “(D) would not generate toxic gases, vapors, or  
5           fumes due to the presence of cyanide at the point of  
6           generation when exposed to pH conditions between 2  
7           and 12.5.

8           “(8) Not later than 5 years after the date of enactment  
9           of this paragraph, the Administrator shall complete a study  
10          of hazardous wastes managed pursuant to paragraph (7)  
11          to characterize the risks to human health or the environ-  
12          ment associated with such management. In conducting the  
13          study, the Administrator shall evaluate the extent to which  
14          the risks are adequately addressed under existing State or  
15          Federal programs and whether unaddressed risks could be  
16          better addressed under such Federal laws or programs.  
17          Upon completion of such study or upon receipt of addi-  
18          tional information, and as necessary to protect human  
19          health and the environment, the Administrator may, after  
20          notice and opportunity for comment, impose additional re-  
21          quirements, including requirements under section  
22          3004(m)(1) or defer management of such wastes to other  
23          State or Federal programs or authorities. Compliance with  
24          any treatment standards promulgated pursuant to section  
25          3004(m)(1) may be determined either prior to management

1 *in, or after discharge from, a land-based unit as part of*  
 2 *a treatment system specified in subparagraph (A) of para-*  
 3 *graph (7). Nothing in this paragraph shall be construed to*  
 4 *modify, supplement, or otherwise affect the application or*  
 5 *authority of any other Federal law or the standards appli-*  
 6 *cable under any other Federal law.*

7       “(9) *Solid waste identified as hazardous based on one*  
 8 *or more characteristics alone shall not be subject to this sub-*  
 9 *section, any prohibition under subsection (d), (e), or (f),*  
 10 *or any requirement promulgated under subsection (m) of*  
 11 *this section if the waste no longer exhibits a hazardous char-*  
 12 *acteristic at the point of injection in any Class I injunction*  
 13 *well regulated under section 1422 of title XIV of the Public*  
 14 *Health Service Act (42 U.S.C. 300h–1).”.*

15 **SEC. 3. GROUND WATER MONITORING.**

16       (a) *AMENDMENT OF SOLID WASTE DISPOSAL ACT.—*  
 17 *Section 4010(c) of the Solid Waste Disposal Act (42 U.S.C.*  
 18 *6949a(c)) is amended as follows:*

19               (1) *By striking “CRITERIA.—Not later” and in-*  
 20 *serting the following: “CRITERIA.—*

21               “(1) *IN GENERAL.—Not later”.*

22               (2) *By adding at the end the following new*  
 23 *paragraphs:*

24               “(2) *ADDITIONAL REVISIONS.—Subject to para-*  
 25 *graph (3), the requirements of the criteria described*

1        *in paragraph (1) relating to ground water monitor-*  
2        *ing shall not apply to an owner or operator of a new*  
3        *municipal solid waste landfill unit, an existing mu-*  
4        *nicipal solid waste landfill unit, or a lateral expan-*  
5        *sion of a municipal solid waste landfill unit, that dis-*  
6        *poses of less than 20 tons of municipal solid waste*  
7        *daily, based on an annual average, if—*

8                *“(A) there is no evidence of ground water*  
9                *contamination from the municipal solid waste*  
10               *landfill unit or expansion; and*

11               *“(B) the municipal solid waste landfill unit*  
12               *or expansion serves—*

13                        *“(i) a community that experiences an*  
14                        *annual interruption of at least 3 consecu-*  
15                        *tive months of surface transportation that*  
16                        *prevents access to a regional waste manage-*  
17                        *ment facility; or*

18                        *“(ii) a community that has no prac-*  
19                        *ticable waste management alternative and*  
20                        *the landfill unit is located in an area that*  
21                        *annually receives less than or equal to 25*  
22                        *inches of precipitation.*

23                *“(3) PROTECTION OF GROUND WATER RE-*  
24                *SOURCES.—*

1           “(A) *MONITORING REQUIREMENT.*—A State  
2           may require ground water monitoring of a solid  
3           waste landfill unit that would otherwise be ex-  
4           empt under paragraph (2) if necessary to protect  
5           ground water resources and ensure compliance  
6           with a State ground water protection plan,  
7           where applicable.

8           “(B) *METHODS.*—If a State requires  
9           ground water monitoring of a solid waste land-  
10          fill unit under subparagraph (A), the State may  
11          allow the use of a method other than the use of  
12          ground water monitoring wells to detect a release  
13          of contamination from the unit.

14          “(C) *CORRECTIVE ACTION.*—If a State finds  
15          a release from a solid waste landfill unit, the  
16          State shall require corrective action as appro-  
17          priate.

18          “(4) *NO-MIGRATION EXEMPTION.*—

19                 “(A) *IN GENERAL.*—Ground water monitor-  
20                 ing requirements may be suspended by the Direc-  
21                 tor of an approved State for a landfill operator  
22                 if the operator demonstrates that there is no po-  
23                 tential for migration of hazardous constituents  
24                 from the unit to the uppermost aquifer during

3                   “(B)    CERTIFICATION.—A   demonstration  
4                   under subparagraph (A) shall be certified by a  
5                   qualified ground-water scientist and approved by  
6                   the Director of an approved State.

7                   “(C) GUIDANCE.—Not later than 6 months  
8                   after the date of enactment of this paragraph, the  
9                   Administrator shall issue a guidance document  
10                  to facilitate small community use of the no mi-  
11                  gration exemption under this paragraph.”.

(b) *REINSTATEMENT OF REGULATORY EXEMPTION.*—  
It is the intent of section 4010(c)(2) of the Solid Waste Dis-  
posal Act, as added by subsection (a), to immediately rein-  
state subpart E of part 258 of title 40, Code of Federal  
Regulations, as added by the final rule published at 56 Fed-  
eral Register 50798 on October 9, 1991.

18 *SEC. 4. TECHNICAL CORRECTIONS TO SOLID WASTE DIS-*  
19 *POSAL ACT.*

20      *The Solid Waste Disposal Act is amended as follows:*

(1) In section 3001(d)(5) by striking “under section 3001” and inserting “under this section”.

(2) By inserting a semicolon at the end of section 3004(q)(1)(C).



1           (3) *In section 3004(g), by striking “subpara-*  
2           *graph (A) through (C)” in paragraph (5) and insert-*  
3           *ing “subparagraphs (A) through (C)”.*

4           (4) *In section 3004(r)(2)(C), by striking*  
5           *“petroleum-derived” and inserting “petroleum-de-*  
6           *rived”.*

7           (5) *In section 3004(r)(3) by inserting after*  
8           *“Standard” the word “Industrial”.*

9           (6) *In section 3005(a), by striking*  
10          *“polycholorinated” and inserting “polychlorinated”.*

11          (7) *In section 3005(e)(1), by inserting a comma*  
12          *at the end of subparagraph (C).*

13          (8) *In section 4007(a), by striking “4003” in*  
14          *paragraphs (1) and (2)(A) and inserting “4003(a)”.*